

TWO
PETITIONS

Presented to the
Supream Authority
OF THE
NATION,

FROM
Thousands of the LORDS, OW-
NERS, and COMMONERS of Lin-
colnshire; against the Old Court-Lovel-
lers, or Propriety-Destroyers, the
Prerogative Undertakers.

By order of John Tillburne



LONDON,
Printed by J. B. 1650.



RELATIONS

Between the

United States and

the

British Empire

as far as the

rights of the

individuals of the

two countries are

concerned

LONDON

Printed by J. B. 1850.



To the Supream Authority of the Nation,
in PARLIAMENT Assembled :

*The Humble Petition of divers Freemen of England,
whose names are herunto annexed, Inhabitants in
the County of Lincoln, in the behalf of themselves,
and others the Lords, Owners, and Commoners of, and
in the Fennes belonging to Holland and Kesteven,
in the said County, lying between Bourne and Kyme,*

Sheweth :



That by the wisdom, hazards, and industry
of our prudent Ancestors, the great Charter
of *England* was gained and confirmed;
In the 29. chap. of which it is enacted,
That no Freeman shall be taken, imprisoned,
or be disseized of his Freehold or
Liberties, or free Customes, or be outlawed or exiled, or
otherwise destroyed; nor put upon, nor condemned, but
by lawfull Judgement of his Peeres, or by the Law of the
Land. And by the 15. and 16. chap. of which it is enacted,
That no Freeman shall be distrained or compelled to make
or maintaine Banks or Bridges, but what were in old time,
and by such as were of right accustomed thereunto: For
the well regulating and keeping in repaire of which, by
future Statutes it is commanded, That Commissions be
made in due forme to sufficient persons, to be Justices in
every County of *England*; and they are authorized, (in
pursuance of the intent of *Magna Charta*) to survey and
inquire by Juries of the Neighbourhood; and to execute

and do that which shall be needfull and just, according to Law (as appeares by the Statutes of 25 E. 3. *cap.* 2. and the 1 H. 4. *cap.* 12. and 6 H. 6. *cap.* 5. and 8 H. 6. *cap.* 2. and 12 Ed. 4. *cap.* 7. and 6 H. 8. *cap.* 10. All which are confirmed by the Commission of Sewers, contained in the Statute of the 23 H. 8. *cap.* 5. which expressely ties up all the said Commissioners of Sewers, to proceed according to the Lawes, Customes, and Statutes of the Kingdome, and not otherwise; which is confirmed by the 3. and 4 Ed. 6. *cap.* 8. yea and by the Statute of Improvement, of the 43 Eliz. *cap.* 11. in which there is the first mention of an Undertaker; It is enacted, That the Lord or Lords, as well Bodies Politique or Corporate, as any other person or persons whatsoever, of all and every the Waits and Commons aforesaid, and the most of the Commoners for their particular Commons; and likewise the Owners, and such as have or shall have in severall surrounded grounds, lying within or neare the same, may contract or bargain for part of such Commons, Waits, and severals aforesaid, with such as will undertake the drayning, and keeping dry perpetually the said grounds: Which Contract, Bargaine, and Conveyances thereupon made, shall be good and availeable in Law, to all constructions and purposes, against the said Lords of the said Soyle, &c. Provided that such Contract, Bargaine, Assignement, and Conveyances, be by writing Indented, Sealed, and delivered by the most part of such Commoners, and to the use of the Undertakers, &c. And provided, That such Undertakers shall lay claime to nothing else, but onely that which is so bargained or contracted for in the forme aforesaid: The effect and meaning of which Statute, is pursued by the Statute of the 4 Jac. *chap.* 8. in that Contract, Covenant, and Agreement, made by Indenture betweene the Owners of the Marshes of *Lesnes* and *Fams* in the County of *Kent*, and *William Burrell* of *Ratcliffe*, the Undertaker; and by the Statute of the 7 Jac. *chap.* 20. which provides for the recovery of a great quantity of ground lately surrounded in

Norfolk and Suffolk by the Sea; those two forementioned indubitable Priviledges, of the indifferency of the Commissioners themselves, and the manner of their proceeding by Juries of good and lawfull men of the Neighbourhood, are preserved to the free People therein concerned: Yet notwithstanding all the Priviledges of the aforesaid *Magna Charta*, and the other recited Statutes, *Robert* late Earle of *Lindsey*, *Sir William Killigrew*, *Robert Long*, now Secretary to *Charles Stewart*, Sonne to the late King, and divers other projectting Undertakers, by bribing the late King and divers Lords of the Councell (as hath been fully proved) with a designe to levell and destroy the said Antient and good Lawes and Liberties of *England*, and to overthrow our proprieties. Which Actions in the late Ship-money, Judges and the Earle of *Strafford* were voted by the Parliament in 1640. to be Treason) procured from the late King (as by his Letter of the 12. of *Febr.* in the eighth yeare of his Reigne appeareth,) A-Prerogative Power and Authority, by their owne wills, and without our consents to draine us, and to lay such a Tax upon us the Lords, Owners, and Commoners aforesaid, as (if it be paid) may defray the charge of the Worke, and recompence the Undertakers for their paines, without any respect to the interest of particular persons, or consulting the Owners; where by their owne single view, without any Inquisition or Verdict of Jurors) they finde our Land so surrounded or annoyed with water, that it shall receive benefit by the draining; And that the judgement of the said projectting Undertakers (being both Judges and Parties) must be their rule of proceeding, and not the consent of the Owner, or the Rules of the Law. These are the expresse words of the Letter; In pursuance of which illegall and Prerogative power, they (like so many armed theeves) tooke possession of large proportions of our propriety, Lands, and Estates, and by force of Armes would have kept it; which we legally maintaining, had divers of our friends and associates murdered; and our proceedings

at Law damni'd up by Councell-Table Orders, and left us either in Law or reason, no other remedy but an Ap-
peale to the House of Commons : Upon the hearing and full examining of which businesse, in the particular Case of Master *Robert Barkham*, they thought it just upon the third of *February*, 1640. to vote, That the severall Imprisonments of Master *Barkham*, by vertue of severall Orders from the Councell Board, is a grievance, and illegall.

Resolved, &c.

That reparation is fit to be given to Master Barkham, for his severall commitments, by those Lords of the Councell that have subscribed to his commitments.

Resolved, &c.

That Sir William Killagrew, and Sir Anthony Thomas, shall contribute towards those Reparations to be given to Master Barkham.

And upon the tenth of *February*, 1640. It was resolved upon the Question,

That Master Barkham shall be at liberty to proceed at Common Law touching the Premisses, and the Injunction made in the Court of Dutchy to be dissolved.

So here in his particular Case, the Locks and Bolts fastened upon the Law were taken off, and we left to enjoy our hereditarie Priviledges, or proper remedie at the Law. And besides this particular Case of his, the then House of Commons, in their Grand and first Remonstrance of the state of the Kingdome, and of the roots and causes of all the miseries possessing this Nation; enumerate the violence and injustice done to Your Petitioners, as one of the grand Grievances, Projects, injustice, Oppression and Violence, that brake in upon the Nation, without any restraint or moderation : And in Page 7. thus particularly expresse it : Large quantities of Common and severall Grounds have been

been taken from the Subject, by colour of the Statute of Improvement, and by abuse of the Commission of Sewers, without their consent, and against it. Yea and upon the Report of Sir *Guy Palmes*, the 29 July, 1641. of the Earle of *Lindsey* procuring an Order from the House of Lords, to stop us of the benefit of the Law against him and his Associates, the House resolved, That the said Order is a breach of the Priviledge of that House (the Cause there depending before them) and that the Commons were not bound by the said Order.

Our whole businesse being long since examined before a Committee of Parliament, where Master *Ellis* had the Chaire; we were in hopes long since upon the Report thereof, to have exemplary Justice done upon our draining projecting Adversaries, as destroyers of propriety; with which if they had gone on, and so have taken away our Estates and Substance, we had beene no more a People; but the Warres coming on (in which divers of them had no little share, as beginners thereof) we waited with a patient expectation of the full enjoyment of all the benefits of your Primitive Declarations, for the full securing of our Liberties and Properties; abundance of us having beene active and faithfull in Armes, in yours and the Nations Service. But contrariwise, we by sad experience finde, that our Prerogative Projectors and Destroyers, that had long endeavoured with their swords &c. to cut your and our throats; after the Warres are ended, assume unto themselves the impudence and boldnesse beyond our imaginations, lately to petition this Honourable House with sundry false suggestions, and pretence of Title to 14000 Acres of our said Fennes, for their endeavouring as aforesaid, to draine us contrary to Law, and against our consents; which are our Proprieties, and therefore without our consents cannot upon any pretence whatsoever be taken from us (as largely proved and declared by those two notable printed Arguments of Judge *Crook* and Judge *Hart*, in the Case of Ship-money; as also by your remarkable

ble Votes thereunto annexed; as also by the Act of the
 seventeenth of the late King, Declaring the Ship-Money
 to be illegall; as also by *Naboth's* preserving his Title to
 his Vineyard, against King *Ahab*, although he would have
 given him a better for it, or the worth of it in Money;
 hoping in our absence by the said Petition to have intru-
 ded, as formerly they have done, into our Antient and
 undoubted Right and Inheritance, legally preserved by
 us under your protection, at a vast charge. Now for-
 asmuch as by the whole Current of all your Declarati-
 ons, the end of the late Warres was to maintaine, de-
 fend, and secure our Properties, and Fundamentall Le-
 gall Rights, and not in the least to destroy them: And in
 your Declarations of the second of *November*, 1642.
 1 *Part Booke Dec. pag. 693.* You declare your abhorren-
 cy and detestation of the Kings Charge laid upon you
 That you will dispose of the Peoples Fortunes and Estates
 by your owne Votes, contrary to the Law of Propriety.
 And in your Declaration of the seventeenth of *April*,
 1646. 2 *Part, Booke, Dec. fol. 879.* You declare, That al-
 though the necessity of Warre hath stopped the usuall
 course of Justice, enforced the Parliament for the pre-
 servation of this State, to impose and require many
 great and unusuall Payments from the good Subjects of
 this Kingdome, and to take extraordinary waies for pro-
 curing of Monies for their many pressing occasions; it
 having pleased God to reduce our Affaires into a more
 hopefull condition then heretofore; We do Declare, That
 We will not, nor any by colour of any Authority derived
 from us, shall not interrupt the ordinary course of Justice,
 in the severall Courts and Iudicatories of this Kingdom,
 nor intermeddle in cases of private interest, otherwise
 determinable, unless it be in case of *Male Administrationem*
 of Justice, wherein we shall see and provide that right be
 done, and punishment inflicted, as there shall be occasion,
 according to the Laws of the Kingdom, and the Trust re-
 posed in us.

And

And in your late Declarations of the ninth of Feb. 1648. and the seventeenth of March 1648. you declare you will maintain the good old Laws and Customs of England, the Badges of our Freedom; The benefit whereof our Ancestors enjoyed long before the Conquest, and particularly the Great Charter of Liberties; and that excellent Law (as your selves call it) of the Petition of Right, with all things therein contained, incident and belonging to the preservation of the Lives, Proprieties, and Liberties of the People; which you there acknowledge, being duly executed, are the most just, free, and equal of any other Laws in the world. And for the violating of the priviledges; of which *Empson* and *Dudley*, Privy Counsellors to *Henry 7.* for taking away mens Estates, and Proprieties, by their wills and discretions, without Tryals by Juries, Although they had an Act of Parliament (viz. the 11. *Henry 7.* Chap. 3. to warrant them for their so doing) lost their heads and lives upon Tower-hill, as Traitors, for subverting the Fundamental Laws and Liberties of England.

The premises seriously and duly considered, and in that in your Declaration of the 17. January. 1644. 1. Part Book Declar. pag. 39. in the Case of the Five Members, against whom Sir Wil. Killigrew was a violent Actor (as by that Declaration appears) You have declared, that you are very sensible, that it equally imports you as well to see Justice done against them that are Criminous, as to defend the just Rights and Liberties of the Subjects, and Parliament of England: And in your Declaration of the 23 of Octob. 1642. 1. Part Book Dec. pa. 656. You declare, that the Execution of Justice is the Soul and Life of all Laws. Your Petitioners therefore humbly pray, That the said Projecting and Propriety-destroying Sir Wil. Killigrew, with all his Participants, may (for the vindicating of the publique Justice of the Nation, and for the exemplary deterring of all other in future time to walk in his Arbitrary, Prerogative Law, and Liberty-destroying steps) be speedily and effectually proceeded against, both as to Life and Estate; for his aforesaid Crimes, committed against the Common Liberty, Peace, and Tranquility of the Nation, to the utmost extent of any Law in being before his said transgressions.

And more particularly, that all Differences betwixt him, &c. and your Petitioners, or any other of their Associates, may be wholly and totally turned over, and left to the ordinary and due Course of the Common Law, in the Ordinary Courts of Justice, the proper and sole Administrators and Executors of the Law; That so we may thereby, without interruption, maintain our undoubted Inheritances, and proprieties, and legally recover our just Satisfaction and Reparations, from him, &c. For all his, and their oppressions, murders, and violences committed upon us, and our associates: It being (in our weak judgements) then, and onely then proper for him, by the Law of England now in being, to appeal to the Parliament, after Tryals at the Common Law, and his Conceptions of injustice done him there, which is cleer by the Statutes of the 27 of Elizab. Cha. 8. and 31. Eliz. c. 1. and the Lord Cooks Plea, fol. 2. 24. 37. And that we may be enabled to scoure, cleanse, wyden, and repair our ancient Rivers, Sewers, Drayns, Goats, Sluces, and Clowes, which will sufficiently keep dry our said Fenns: In the perfecting of which work, we have these 60 years, been interrupted and hindred, by that Court-project of Undertaking.

And your Petitioners shall ever pray, &c.

To the Right Honorable the Supream Authority of
the COMMONS of England, Assembled
in PARLIAMENT.

The humble Petition of the Inhabitants of Kirton, Frampton, Skirbeck-quarter, Wiberton, Alderkirk, Folsdike, Sutterton, Brothertofie, West-Boston, Swinchhead, and Wigtoft, Commoners in Holland Fenns, alias the eight hundred Fenn in the County of Lincoln.

SHEWETH,

THat in the said Parts of *Holland* and County of *Lincoln*, there is a great Common Fenn called *Holland Fenn* alias the eight hundred Fenn, conteining about one and twenty thousand Acres; within which your Petitioners and all others possided of any ancient Messuage, Cottage, or Toststead, within all or any of the eleven populous
TOWNS

Towns abovesaid, have by prescription, time out of minde, peaceably without eviction or disturbance, had and enjoyed Common of pasture for themselves, their Tenants, and Farmers, for all and all manner their own Cattel respectively, together with common of *Turbary*, and other Liberties, during their respective residences in their Messuages, Cottages, or Toststeads, as belonging and rightly appertaining to the same: Until of late years, some of your Petitioners were most injuriously vexed, aswell by unjust suits of Law, as by other illegal and tyrannical usurpations, promoted and prosecuted in the name of the late King, by several undertakers, who were likewise Commissioners, all or most of them men not onely of ill affected spirits, but in these late Wars, open and violent oppugners of the just privileges, undoubted immunities and common peace of this Nation; one while pretending the Kings Title to the said Fenns, when as in truth no such ever was or could be made appear: And otherwhiles by new Commissioners of Sewers, illegally procured, and as illegally executed, without inquisition, verdict of Jurors, or other legal means; declaring a great part of the said Fenns to be hurtfully surrounded, assessing unnecessary and intolerable taxes for its draining: And in default of payment thereof, decrecing away from your Petitioners, and the rest of the Commissioners, eight thousand Acres of the said Fenn, worth fourscore thousand pounds at the least, at such a time when your Petitioners Cattel there depasturing, were ready to perish for lack of water: Against all such which and other unparalleld oppressive proceedings; not onely imprisoning and fining the persons of divers of your Petitioners, upon their humble, peaceable, and legal implorements of Justice, at large specified in a Petition formerly presented to your Honorable House, now remaining in the hands of *William Ellis Esquire*, then Chairman to the Committee for these affairs. Your Petitioners, though to their great trouble and charge, have not onely lawfully defended themselves, but hitherto have and still do maintain their possession and right in the said Fenns, in such sort as their Ancestors for many hundred of years past have enjoyed the same. Yet taking notice, that the said undertakers, notorious and declared enemies of the good and peace of this Common-wealth, by new contri-

vances promote their old corrupt Interests; Your Petitioners aswell in conformity to your first Remonstrance of the State of the Kingdom, wherein your selves lay it down as a grievance, that large quantities of Commons have been taken from the Subjects, by colour of the Statute of improvement, and abuse of the Commission of Sewers, without their consents and against it; as in defence of their own just Proprieties, cannot but take themselves bound, as to protest against their horrid and long since exploded undertaking; So to remonstrate to your Honors, that the said eight hundred Fenn is, and time whereof the memory of man is not to the contrary, was a firme soyl apt for depasturing all manner of Cattel, most part of the year: By the commoditie of which many thousands with their families, have been and are encouraged to reside amongst us, the fruit of whose cordial affections, cheerful assistance and liberal contributions in these late unhappy differences, the Parliament and Nation have been no ordinary participants. Upon all which,

Your Petitioners humbly implore your Honors to own your many Declarations and Votes, against destroying Propriety, by unjust and arbitrary proceedings, and particularly in this case of illegal draining: And that your Petitioners for the vindication of the publique Justice of the Nation, according to your former Declarations and Votes, may be freed from those Projectors and Propriety destroyers; and that all differences betwixt them and the undertakers, or any of their associates, may be wholly and totally left to the ordinary and due course of the Common Law in ordinary Courts of Justice, that we may at a reasonable charge maintain our undoubted Inheritances and Proprieties, and recover our just Satisfaction for injuries done; which will ease your Honors of much trouble, and put both them and us into wayes of Trials for their pretended, and our just Rights: And that those horrid and publique enemies of our Country, may not be protected by your Honors, whose destruction they have contrived, and vigorously endeavoured; but that they may be brought to condigne punishment according to the Laws of this Nation; that others may be deterred from treading in their steps; and your Petitioners have cause to acknowledge your Honors the true Patrons of their just Rights and Proprieties.

FINIS.